IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 263 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME-TAX

Versus

SAURASHTRA SHIP BREAKING INDUSTRIES

Appearance:

1. INCOME TAX REFERENCE No. 263 of 1992
MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 16/01/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this reference at the instance of the Revenue, the following question is referred for our opinion, in respect of the assessment year 1985-86:

"Whether, the Appellate Tribunal is right in law and on facts in directing the assessing officer to allow deduction u/s. 80HH and 80I when the assessee was carrying on ship breaking activity?"

2. We have heard Mr. M.R. Bhatt, learned Standing Counsel for the revenue. Though served, none appears on behalf of the respondent - assessee.

3. Our attention is drawn to the decision of another Division Bench of this Court in Commissioner of Income-Tax v. Vijay Ship Breaking Corporation, 2003 (261) ITR 113, taking the view that ship breaking activity was not an activity of manufacture or production of any article or thing for the purposes of availing of the benefit of deductions under sections 80HH and 80-I of the Income-Tax Act, 1961. Applying the ratio of the aforesaid decision, we answer the question in the negative, i.e., in favour of the Revenue and against the assessee.

4. The reference accordingly stands disposed of.

(M.S. Shah, J.)

(A.M. Kapadia, J.)

(karan)